

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

IN RE PAYSIGN, INC. SECURITIES
LITIGATION

Case No. 2:20-cv-00553-GMN-DJA

**ORDER GRANTING MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

WHEREAS, Lead Plaintiffs Johann Francisconi (“Francisconi”) and Raheel Shahzad (“Shahzad” and with Francisconi, “Plaintiffs”), on behalf of themselves and the Settlement Class (defined below), on the one hand, and Defendants Paysign, Inc. (“Paysign” or the “Company”), Mark Newcomer (“Newcomer”), Mark Attinger (“Attinger”), Daniel Spence (“Spence” and with Newcomer and Attinger, the “Individual Defendants” and with Paysign, the “Defendants” and with Plaintiffs, the “Parties”), dated December 15, 2023 (the “Stipulation”), which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits annexed thereto, sets forth the terms and conditions for the proposed settlement and dismissal of the class action pending before the Court entitled, *In re Paysign, Inc. Securities Litigation*, Case No. 2:20-cv-00553-GMN-DJA (D. Nev.) (the “Action”); and the Court having read and considered the Stipulation and the exhibits thereto and submissions made relating thereto, and finding that substantial and sufficient grounds exist for entering this Order; and the Settling Parties having consented to the entry of this Order;

1. Capitalized terms used herein have the same meanings as defined in the Stipulation.
2. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure and for the purposes of the Settlement only, the Action is hereby preliminarily certified as a class action on behalf of the Settlement Class consisting of all persons and entities who purchased or acquired Paysign common stock between March 12, 2019, and March 31, 2020, both dates inclusive and were damaged thereby. Excluded from the Class are the Released Defendant Parties, including, without limitation, (i) Defendants; (ii) any person who served as a partner, control person, executive

1 officer and/or director of Paysign during the Settlement Class Period, and members of their
2 immediate families (as defined in 17 C.F.R. § 229.404, Instructions (1)(a)(iii) and (1)(b)(ii)); (iii)
3 present and former parents, subsidiaries, assigns, successors, affiliates, and predecessors of
4 Paysign; (iv) any entity in which the Defendants have or had a controlling interest; (v) any trust of
5 which an Individual Defendant is the settler or which is for the benefit of an Individual Defendant
6 and/or member(s) of their immediate families; (vi) Defendants' liability insurance carriers; and (vii)
7 the legal representatives, heirs, successors, and assigns of any person or entity excluded under
8 provisions (i) through (vi) hereof. Also excluded from the Settlement Class are those persons who
9 file valid and timely requests for exclusion in accordance with this Preliminary Approval Order and
10 persons who have no compensable damages.

11 3. For the reasons discussed in the Consent Motion for Preliminary Approval of
12 Settlement, ECF No. 63, this Court finds, preliminarily and for purposes of this Settlement only,
13 that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil
14 Procedure have been satisfied in that: (a) the number of Settlement Class Members is so numerous
15 that joinder of all members of the Settlement Class is impracticable; (b) there are questions of law
16 and fact common to the Settlement Class; (c) the claims of Plaintiffs are typical of the claims of the
17 Settlement Class they seek to represent; (d) Plaintiffs fairly and adequately represent the interests
18 of the Settlement Class; (e) questions of law and fact common to the Settlement Class predominate
19 over any questions affecting only individual members of the Settlement Class; and (f) a class action
20 is superior to other available methods for the fair and efficient adjudication of the Action.

21 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, preliminarily and for
22 the purposes of this Settlement only, Plaintiffs are certified as the class representatives on behalf of
23 the Settlement Class ("Class Representatives") and Lead Counsel, previously selected by Plaintiffs
24 and appointed by the Court, are hereby appointed as Lead Counsel for the Settlement Class ("Class
25 Counsel").

26 5. For the reasons discussed in the Consent Motion for Preliminary Approval of
27 Settlement, ECF No. 63, the Court finds that (a) the Stipulation resulted from good faith, arm's
28 length negotiations, and (b) the Stipulation is sufficiently fair, reasonable and adequate to the

1 Settlement Class Members to warrant providing notice of the Settlement to Settlement Class
2 Members and holding a Settlement Hearing.

3 6. The Court hereby preliminarily approves the Settlement, subject to further
4 consideration at a hearing (the “Settlement Hearing”) pursuant to Federal Rule of Civil Procedure
5 23(e), which is hereby scheduled to be held before the Court on **April 17, 2024 at 10:00 a.m.** for
6 the following purposes:

7 (a) to determine finally whether the applicable prerequisites for class action treatment
8 under Federal Rules of Civil Procedure 23(a) and (b) are satisfied;

9 (b) to determine finally whether the Settlement is fair, reasonable, and adequate, and
10 should be approved by the Court;

11 (c) to determine finally whether the Final Judgment as provided under the Stipulation
12 should be entered, dismissing the Action on the merits and with prejudice, and to determine whether
13 the release by the Releasing Parties of the Released Claims against the Released Parties, as set forth
14 in the Stipulation, should be approved, along with a permanent injunction barring efforts to
15 prosecute or attempt to prosecute any Released Claims extinguished by the release against any of
16 the Released Parties, as also set forth in the Stipulation;

17 (d) to determine finally whether the proposed Plan of Allocation for the distribution of
18 the Net Settlement Fund is fair and reasonable and should be approved by the Court;

19 (e) to consider the application of Class Counsel for an award of attorneys’ fees with
20 interest and expenses and an award to the Class Representatives;

21 (f) to consider Settlement Class Members’ objections to the Settlement, if any, whether
22 submitted previously in writing or presented orally at the Settlement Hearing by Settlement Class
23 Members (or by counsel on their behalf) provided that they gave proper notice that they intend to
24 appear at the Settlement Hearing; and

25 (g) to rule upon such other matters as the Court may deem appropriate.

26 7. The Court reserves the right to adjourn the Settlement Hearing to a later date and to
27 approve the Settlement without modification, or with such modifications as may be agreed to by
28 the Settling Parties, and with or without further notice of any kind. The Court further reserves the

1 right to enter its Order and Final Judgment approving the Settlement and dismissing the Action, on
2 the merits and with prejudice, regardless of whether it has approved the Plan of Allocation or
3 awarded attorneys' fees and expenses.

4 8. The Court approves the form, substance and requirements of (a) the Notice of
5 Pendency and Proposed Settlement of Class ("Long Notice"), (b) the Proof of Claim and Release
6 Form ("Claim Form"), (c) the Summary Notice of Pendency and Proposed Class Action Settlement
7 ("Summary Notice"); and (d) the Postcard Notice, all of which are attached as Exhibits A-1, A-2,
8 A-3 and A-4, respectively, to the Stipulation.

9 9. Class Counsel have the authority to enter into the Settlement on behalf of the
10 Settlement Class and have the authority to act on behalf of the Settlement Class with respect to all
11 acts or consents required by or that may be given pursuant to the Stipulation or such other acts that
12 are reasonably necessary to consummate the Settlement.

13 10. For settlement purposes only, Strategic Claims Services is appointed and approved
14 as the Claims Administrator to supervise and administer the notice procedure as well as the
15 processing of claims.

16 11. Class Counsel, through the Claims Administrator, shall cause the Postcard Notice
17 substantially in the form annexed to the Stipulation, to be mailed, by first class mail, postage
18 prepaid, within sixteen (16) calendar days of the entry of this Order, to all Settlement Class
19 Members who can be identified with reasonable effort by Class Counsel, through the Claims
20 Administrator.

21 12. The Escrow Agent may, at any time after entry of this Order and without further
22 approval from Defendants or the Court, disburse at the direction of Class Counsel up to one hundred
23 seventy five thousand U.S. dollars (\$175,000) from the Settlement Fund prior to the Effective Date
24 to pay Notice and Administration Expenses.

25 13. No later than five (5) business days after the date of this Order, the Company shall
26 provide and/or cause its transfer agent to provide to Class Counsel a list of the record owners of
27 Paysign common stock during the Settlement Class Period in a usable electronic format, such as an
28 Excel spreadsheet containing the names and addresses of Settlement Class Members. This

1 information will be kept confidential and not used for any purpose other than to provide the notice
2 contemplated by this Order.

3 14. Class Counsel, through the Claims Administrator, shall make all reasonable efforts
4 to give notice to nominees or custodians who held Paysign common stock during the Settlement
5 Class Period as record owners but not as beneficial owners. Such nominees or custodians shall,
6 within ten (10) calendar days of receipt of the Postcard Notice, either: (i) request additional copies
7 of the Postcard Notice sufficient to send the Postcard Notice to all beneficial owners for whom they
8 are nominee or custodian, and within ten (10) calendar days after receipt thereof send copies to
9 such beneficial owners; or (ii) provide the Claims Administrator with lists of the names, last known
10 addresses and email addresses (to the extent known) of such beneficial owners, in which event the
11 Claims Administrator shall promptly deliver the Postcard Notice to such beneficial owners.
12 Nominees or custodians who elect to send the Postcard Notice to their beneficial owners shall send
13 a written certification to the Claims Administrator confirming that the mailing has been made as
14 directed. Additional copies of the Postcard Notice shall be made available to any nominee or
15 custodian requesting same for the purpose of distribution to beneficial owners. The Claims
16 Administrator shall, if requested, reimburse nominees or custodians out of the Settlement Fund
17 solely for their reasonable out-of-pocket expenses incurred in providing notice to beneficial owners,
18 up to a maximum of \$0.05 plus postage at the pre-sort rate used by the Claims Administrator per
19 Postcard Notice actually mailed or \$0.05 per name and address provided to the Claims
20 Administrator, which expenses would not have been incurred except for the sending of such notice,
21 and subject to further order of this Court with respect to any dispute concerning such
22 reimbursement.

23 15. Class Counsel shall, at least seven (7) calendar days before the Settlement Hearing,
24 serve upon counsel for Defendants and file with the Court proof of the mailing of the Postcard
25 Notice as required by this Order.

26 16. Class Counsel, through the Claims Administrator, shall cause the Stipulation and its
27 exhibits, this Order, and a copy of the Notice to be posted on the Claims Administrator's website
28 within sixteen (16) calendar days after entry of this Order.

1 17. Class Counsel, through the Claims Administrator, shall cause the Summary Notice
2 to be published once over a newswire that distributes nationally in the United States (*e.g.*,
3 *GlobalNewswire*, *PR Newswire*) within sixteen (16) calendar days after the entry of this Order.
4 Class Counsel shall, at least seven (7) calendar days before the Settlement Hearing, serve upon
5 counsel for Defendants and file with the Court proof of publication of the Summary Notice.

6 18. The forms and methods set forth herein of notifying the Settlement Class Members
7 of the Settlement and its terms and conditions meet the requirements of due process, Rule 23 of the
8 Federal Rules of Civil Procedure, and Section 21D(a)(7) of the Securities Exchange Act of 1934,
9 15 U.S.C. 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995;
10 constitute the best notice practicable under the circumstances; and constitute due and sufficient
11 notice to all persons and entities entitled thereto. No Settlement Class Member will be relieved
12 from the terms and conditions of the Settlement, including the releases provided for therein, based
13 upon the contention or proof that such Settlement Class Member failed to receive actual or adequate
14 notice.

15 19. In order to be entitled to participate in recovery from the Net Settlement Fund after
16 the Effective Date, each Settlement Class Member shall take the following action and be subject to
17 the following conditions:

18 (a) A properly completed and executed Claim Form must be submitted to the Claims
19 Administrator: (a) electronically through the Claims Administrator's website,
20 www.strategicclaims.net/Paysign/, by 11:59 p.m. EST on **March 4, 2024**; or (b) at the Post Office
21 Box indicated in the Notice, postmarked no later than **March 4, 2024** (forty-four (44) calendar days
22 prior to the Settlement Hearing). Such deadline may be further extended by Order of the Court.
23 Each Proof of Claim and Release Form shall be deemed to have been submitted when: (a) the claim
24 receives a confirmation notice from Strategic Claims Services for electronic submissions; or (b)
25 legibly postmarked (if properly addressed and mailed by first class mail) provided such Proof of
26 Claim and Release Form is actually received before the filing of a motion for an Order of the Court
27 approving distribution of the Net Settlement Fund. Any Proof of Claim and Release Form submitted
28 in any other manner shall be deemed to have been submitted when it was actually received by the

1 Claims Administrator at the address designated in the Notice.

2 (b) The Claim Form submitted by each Settlement Class Member must satisfy the
3 following conditions: (i) it must be properly completed, signed and submitted in a timely manner
4 in accordance with the provisions of the preceding subparagraph; (ii) it must be accompanied by
5 adequate supporting documentation for the transactions reported therein, in the form of broker
6 confirmation slips, broker account statements, an authorized statement from the broker containing
7 the transactional information found in a broker confirmation slip, or such other documentation as
8 is deemed adequate by the Claims Administrator or Class Counsel; (iii) if the person executing the
9 Claim Form is acting in a representative capacity, a certification of his current authority to act on
10 behalf of the Settlement Class Member must be provided with the Claim Form; and (iv) the Claim
11 Form must be complete and contain no material deletions or modifications of any of the printed
12 matter contained therein and must be signed under penalty of perjury.

13 (c) Once the Claims Administrator has considered a timely submitted Claim Form, it
14 shall determine whether such claim is valid, deficient, or rejected. For each claim determined to be
15 either deficient or rejected, the Claims Administrator shall send a deficiency letter or rejection letter
16 as appropriate, describing the basis on which the claim was so determined. Persons who timely
17 submit a Claim Form that is deficient or otherwise rejected shall be afforded a reasonable time (at
18 least ten (10) calendar days) to cure such deficiency if it shall appear that such deficiency may be
19 cured. If any Claimant whose claim has been rejected in whole or in part wishes to contest such
20 rejection, the Claimant must, within ten (10) calendar days after the date of mailing of the notice,
21 serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's
22 ground for contesting the rejection along with any supporting documentation, and requesting a
23 review thereof by the Court. If an issue concerning a claim cannot be otherwise resolved, Class
24 Counsel shall thereafter present the request for review to the Court.

25 (d) As part of the Claim Form, each Settlement Class Member shall submit to the
26 jurisdiction of the Court with respect to the claim submitted, and shall, upon the Effective Date,
27 release all claims as provided in the Stipulation. No discovery shall be allowed on the merits of the
28 Action or the Settlement in connection with processing of the Claim Form, nor shall any discovery

1 from or of Defendants be allowed on any topic.

2 20. All Settlement Class Members who do not submit a valid and timely Claim Form
3 will be forever barred from receiving any payments from the Net Settlement Fund, but will in all
4 other respects be subject to and bound by the provisions of the Stipulation and the Order and Final
5 Judgment, if entered.

6 21. Settlement Class Members shall be bound by all determinations and judgments in
7 this Action, whether favorable or unfavorable, unless such Persons request exclusion from the
8 Settlement Class in a timely and proper manner, as hereinafter provided. A Settlement Class
9 Member wishing to make such request for exclusion shall mail it, in written form, by first class
10 mail, postage prepaid, or otherwise deliver it, so that it is received no later than **March 20, 2024**
11 (twenty-eight (28) calendar days prior to the Settlement Hearing) (the “Exclusion Deadline”), to
12 the addresses listed in the Notice. In order to be valid, such request for exclusion (A) must clearly
13 indicate the name and address and phone number and email contact information (if any) of the
14 Person seeking exclusion, and state that the sender specifically requests to be excluded from the
15 Settlement Class in *In re Paysign, Inc. Securities Litig.*, No. 2:20-cv-00553-GMN-DJA (D. Nev.)
16 and (B) state the date, number of shares and dollar amount of each Paysign common stock
17 purchased or acquired during the Settlement Class Period, and any sale transactions as well as the
18 number of shares of Paysign common stock between March 12, 2019, and March 31, 2020, both
19 dates inclusive. To be valid, such request for exclusion must be submitted with documentary proof:
20 (i) of each purchase or acquisition and, if applicable, sale of Paysign common stock during the
21 Settlement Class Period; and (ii) demonstrating the Person’s status as a beneficial owner of the
22 Paysign common stock. Any such request for exclusion must be signed and submitted by the
23 beneficial owner under penalty of perjury. The request for exclusion shall not be effective unless it
24 provides the required information, is legible, and is made within the time stated above, or the
25 exclusion is otherwise accepted by the Court. Class Counsel may contact any Person filing a request
26 for exclusion, or their attorney if one is designated, to discuss the exclusion.

27 22. The Claims Administrator shall provide all requests for exclusion and supporting
28 documentation submitted therewith (including untimely requests and revocations of requests) to

1 Class Counsel upon the receipt thereof. The Settlement Class will not include any Person who
2 delivers a valid and timely request for exclusion.

3 23. Any Person that submits a request for exclusion may thereafter submit to the Claims
4 Administrator a written revocation of that request for exclusion, provided that it is received no later
5 than two (2) Business Days before the Settlement Hearing, in which event that Person will be
6 included in the Settlement Class.

7 24. All Persons who submit a valid, timely and unrevoked request for exclusion will be
8 forever barred from receiving any payments from the Net Settlement Fund.

9 25. The Court will consider comments and/or objections to the Settlement, the Plan of
10 Allocation, or the Fee and Expense Application, provided, however, that no Settlement Class
11 Member or other Person shall be heard or entitled to contest the approval of the terms and conditions
12 of the proposed Settlement or, if approved, the Order and Final Judgment, or any other order
13 relating thereto, unless that Person has served copies of any objections, papers and briefs to each
14 of the following counsel at least twenty-eight (28) calendar days prior to the Settlement Hearing
15 Date:

16 LEAD COUNSEL:

17 POMERANTZ LLP

18 Joshua B. Silverman

19 Omar Jafri

10 South LaSalle Street, Suite 3505

20 Chicago, IL 60603

COUNSEL FOR DEFENDANTS:

GREENBERG TRAURIG, LLP

Daniel J. Tyukody

1840 Century Park East, Suite 1900

Los Angeles, CA 90067

21 and that Person has (at least twenty-eight (28) calendar days prior to the Settlement Hearing date)
22 filed said objections, papers and briefs, showing due proof of service upon counsel identified above,
23 with the Clerk of the Court, U.S. District Court, District of Nevada, 333 South Las Vegas
24 Boulevard, Las Vegas, NV 89101. To be valid, any such objection must contain the Settlement
25 Class Member's: (1) name, address, and telephone number; (2) a list of all purchases and sales of
26 Paysign common stock during the Settlement Class Period in order to show membership in the
27 Settlement Class; (3) all grounds for the objection, including any legal support known to the
28 Settlement Class Member and/or his, her, or its counsel; (4) the name, address and telephone

1 number of all counsel who represent the Settlement Class Member, including former or current
2 counsel who may be entitled to compensation in connection with the objection; and (5) the number
3 of times the Settlement Class Member and/or his, her, or its counsel has filed an objection to a class
4 action settlement in the last five years, the nature of each such objection in each case, the
5 jurisdiction in each case, and the name of the issuer of the security or seller of the product or service
6 at issue in each case. Attendance at the Settlement Hearing is not necessary, but Persons wishing
7 to be heard orally in opposition to the approval of the Stipulation, the Plan of Allocation, and/or the
8 Fee and Expense Application are required to indicate in their written objection (or in a separate
9 writing that is submitted in accordance with the deadline and after instruction pertinent to the
10 submission of a written objection) that they intend to appear at the Settlement Hearing and identify
11 any witnesses they may call to testify or exhibits they intend to introduce into evidence at the
12 Settlement Hearing. Settlement Class Members do not need to appear at the Settlement Hearing or
13 take any other action to indicate their approval.

14 26. Any Settlement Class Member who does not object in the manner prescribed above
15 shall be deemed to have waived all such objections and shall forever be foreclosed from making
16 any objection to the fairness, adequacy or reasonableness of the Settlement, the Order and Final
17 Judgment to be entered approving the Settlement, the Plan of Allocation, and/or the Fee and
18 Expense Application, unless otherwise ordered by the Court; shall be bound by all the terms and
19 provisions of the Stipulation and by all proceedings, orders and judgments in the Action; and shall
20 also be foreclosed from appealing from any judgment or order entered in this Action.

21 27. The Court reserves the right to adjourn the Settlement Hearing without any further
22 notice other than entry of an Order on the Court's docket, and to approve the Settlement without
23 further notice to the Settlement Class.

24 28. All papers in support of the Settlement, the Plan of Allocation and/or the Fee and
25 Expense Application shall be filed and served no later than thirty-five (35) calendar days before the
26 Settlement Hearing.

27 29. Any submissions filed in response to any objections or in further support of the
28 Settlement, the Plan of Allocation and/or the Fee and Expense Application shall be filed no later

1 than seven (7) calendar days prior to the Settlement Hearing.

2 30. Defendants, their counsel, their Insurers and other Released Defendant Parties shall
3 have no responsibility for, or liability with respect to, the Plan of Allocation or any application for
4 attorneys' fees and interest, or expenses or payments to the Class Representatives submitted by
5 Class Counsel, and such matters will be considered separately from the fairness, reasonableness,
6 and adequacy of the Settlement.

7 31. Pending final determination of whether the Settlement should be approved, all
8 Releasing Parties shall be enjoined from commencing, prosecuting, or attempting to prosecute any
9 Released Claims against any Released Party in any court, tribunal or proceeding. Unless and until
10 the Stipulation is cancelled and terminated pursuant to the Stipulation, all proceedings in the Action,
11 other than such proceedings as may be necessary to carry out the terms and conditions of the
12 Stipulation, are hereby stayed and suspended until further order of the Court.

13 32. All funds held by the Escrow Agent shall be deemed and considered to be in the
14 custody of the Court and shall remain subject to the jurisdiction of the Court, until such time as
15 such funds shall be distributed or returned pursuant to the Stipulation and Plan of Allocation and/or
16 further order(s) of the Court.

17 33. Neither the Stipulation, nor any of its terms or provision, nor any of the negotiations
18 or proceedings connected with it, shall be construed as an admission or concession by Defendants,
19 their counsel, their Insurers or any of the other Released Parties of the truth of any of the allegations
20 in the Action, or of any liability, fault, or wrongdoing of any kind and shall not be construed as, or
21 deemed to be evidence of or an admission or concession that Class Representatives or any
22 Settlement Class Members have suffered any damages, harm, or loss. Further, neither the
23 Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected
24 with it, nor this Order shall be construed as an admission or concession by the Class Representative
25 of the validity of any factual or legal defense or of the infirmity of any of the claims or facts alleged
26 in this Action.

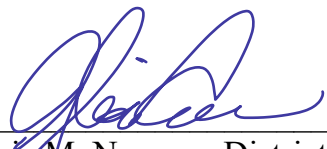
27 34. In the event the Settlement is not consummated in accordance with the terms of the
28 Stipulation, then the Stipulation and this Order (including any amendment(s) thereof, and except

1 as expressly provided in the Stipulation or by order of the Court) shall be null and void, of no further
2 force or effect, and without prejudice to any Settling Party, and may not be introduced as evidence
3 or used in any action or proceeding by any Person against the Settling Parties or the Released
4 Parties, and each Settling Party shall be restored to his, her or its respective litigation positions as
5 they existed prior to November 1, 2023, pursuant to the terms of the Stipulation.

6 35. The Court reserves the right to alter the time or the date of the Settlement Hearing
7 without further notice to the Class Members, provided that the time or the date of the Settlement
8 Hearing shall not be set at a time or date earlier than the time and date set forth in ¶6 above. The
9 Court retains exclusive jurisdiction over the Action to consider all further matters arising out of, or
10 relating to, the Stipulation, including by way of illustration and not limitation, any dispute
11 concerning any Claim Form submitted and any future requests by one or more of the Parties that
12 the Order and Final Judgment, the releases and/or the permanent injunction set forth in the
13 Stipulation be enforced.

14
15 **IT IS SO ORDERED.**

16 Dated this 4 day of January, 2024.

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20 Gloria M. Navarro, District Judge
21 UNITED STATES DISTRICT COURT
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